

Application No. 10/728,593
Response dated June 13, 2005
Reply to Office Action mailed April 20, 2005

REMARKS/ARGUMENTS

Applicants have carefully reviewed the Office Action dated April 20, 2005, regarding the above-referenced patent application. Currently claims 1-20 are pending in the application, with claims 19 and 20 withdrawn from consideration. Claims 1-3, 5-13 and 15-18 stand rejected by the Examiner. Applicants respectfully request favorable reconsideration.

Allowable Subject Matter

Applicants thank the Examiner for indicating that claims 4 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

Rejection under §103(a)

Claims 1-3, 5-13 and 15-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rudolph (US 2,809,002) in view of Kassouni (US 5,407,310). Applicants respectfully traverse the rejection.

Applicants submit that there is no motivation for one of ordinary skill in the art to modify the device of Rudolph according to the teachings of Kassouni. Rudolph discloses an adjustable bar hanger for electrical devices including mounting holes 33/39 in the flanges 32/38 to facilitate mounting. (See, e.g., Rudolph, Figures 3, 5, and 6, and Col. 2, lines 23-28 and 34-37). For example, Figure 1 of Rudolph shows the use of what appear to be nails that are used to attach the adjustable bar hanger 20 between a pair of supports 21/22, such as wooden joists of a building. (Rudolph, Figure 1 and Col. 3, lines 42-54).

Kassouni teaches a fastener-carrier system 12 including a fastener-carrier member 14 having one or more mounting bolts 16, 18 mounted thereto which is adapted to receive a nut, for example 32,34. (Col. 3, lines 42-54). Kassouni teaches the structure of the head 60 of bolts 16, 18 "prevents axial or rotational movement of the mounting bolt 16 relative to the fastener-carrier member 14," and that during a molding operation, "solidified thermoplastic material between adjacent lobes prevents rotation of the bolt 16 relative to the body portion 40 of the fastener-carrier member 14. In addition, the thermoplastic material on either side of the

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top flange 66 of the head 60 prevents axial movement of the bolt relative to the fastener-carrier member 14." See column 4, lines 10-35). The fastener-carrier system of Kassouni is thus specifically designed and manufactured such that the bolts are permanently fixed to the plate and are prevented from rotating or moving. Rotational movement of a threaded nut 32, 34 is required to secure the mounted members 24, 30.

There is no motivation for one of ordinary skill in the art to modify the Rudolph device to have permanently fixed bolts as taught by Kassouni. As can be appreciated, it would be exceedingly difficult, if not impossible, to attach the device of Rudolph to building supports, such as wooden joists, using bolts - especially bolts that are prevented from axial and rotational movement relative to the member to which they are attached.

The fixed bolt device of Kassouni is designed to be attached by inserting the bolts through pre-drilled holes in one side of a mounted member 24 and screwing on the nuts 32, 34 from the opposite side of the mounted member. Both sides of the structure to which the fastener-carrier member is to be fastened must be accessible. See FIG. 5. The device of Rudolph, however, is designed to be attached to one side of a structure, particularly in a relatively inaccessible location. See column 1, lines 23-24, and FIG. 1. As such, Applicants respectfully submit that one of ordinary skill in the art would have no motivation or reason to modify the device of Rudolph to have fixed bolts as taught by Kassouni.

Applicants respectfully submit that Kassouni cannot properly be combined with Rudolph to arrive at the claimed invention. The proposed modification of the device disclosed in Rudolph in accordance with the teaching of Kassouni would render the device of Rudolph unsatisfactory for its intended purpose and/or change the principle of operation. If one were to substitute the fixed bolts of Kassouni for what appears to be the nails in the device of Rudolph, one would have to pre-drill holes through the wooden joists, have bolts long enough to go through the joists, and have access to the back of the joist in order to attach the hanger of Rudolph to a joist with the fixed bolts of Kassouni using nuts. Applicants submit that this would greatly increase the complexity of the procedure and would increase the cost and time required to install the hangers of Rudolph. Furthermore, Rudolph specifically teaches his device for use in areas that are relatively inaccessible (column 3, lines 58-60), which provides another indication that bolts would not be a feasible alternative to the

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nails used by Rudolph. Thus, Rudolph actually teaches away from using fixed bolts such as those taught by Kassouni.

Additionally, if the references are combined, a *prima facie* case of obviousness does not exist. It is well known that in order to establish a *prima facie* case of obviousness, the prior art combination must teach each and every element in the claimed invention. See, M.P.E.P. 2143.03. The independent claims 1, 11, 12 and 18 each includes a screw pre-disposed in an opening of a flange of a hanger assembly. Applicants assert the prior art of record fails to teach or suggest at least this feature of the invention as currently claimed. Neither Rudolph nor Kassouni, alone or in combination, teach or suggest a screw pre-disposed in an opening of a flange of a hanger assembly as currently claimed. Rudolph appears to teach using nails for attaching the hanger to the joists. See FIG. 1. As stated above, Kassouni teaches fixed bolts with nuts for attaching the plate. Applicants assert there are distinct structural differences between the bolt configuration disclosed in Kassouni and a screw as currently claimed.

Thus, even if one were to combine the teachings of Rudolph and Kassouni, one would not arrive at the instantly claimed invention, which recites a screw pre-disposed within the opening in a flange. Applicants respectfully assert a *prima facie* case of obviousness has not been established, and respectfully request withdrawal of the rejection.

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Conclusion

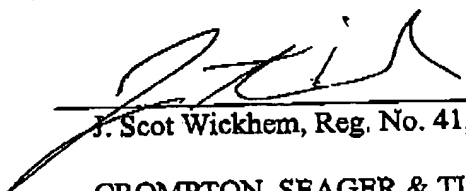
Reexamination and reconsideration are respectfully requested. It is submitted that claims 1-18 are currently in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612.677.9050.

Respectfully submitted,

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By their attorney,

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